

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application of

Dirk KÖTHEN et al.

Serial No.: 10/559,207

Filed: December 2, 2005

For: Fuel Injection Nozzle

Examiner: McGraw, Trevor E.
Group Art: 3752

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

May 16, 2007

(Date of Deposit)

Alfred W. Froebrich

Name of applicant, assignee or Registered Representative

Alfred W. Froebrich

Signature

May 16, 2007

Date of Signature

Mail Stop **Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.181(a)**

S I R:

By this Petition, applicants requests withdrawal of the holding of abandonment set forth in the Notice of Abandonment mailed May 4, 2007 in connection with the above-identified application. Any fees or charges required in connection with this Petition may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Applicant's undersigned representative has received from the Patent and Trademark Office the above-mentioned Notice of Abandonment, mailed May 4, 2007, reciting that the subject application is abandoned due to Applicants' alleged failure to respond to the Office Letter mailed October 13, 2006.

In reality, and as set forth in the annexed Declaration of Alfred W. Froebrich, a suitable response to the Office Action of October 13, 2006 -- namely, a "Notice of Appeal" and "Request for Pre-Appeal Brief Review"-- was timely mailed to the Patent Office by First Class Mail, accompanied by a Certificate of Mailing, on April 12, 2007. A copy of that Notice of Appeal, as filed on April 12, 2007, is attached to the annexed Declaration of Alfred W. Froebrich.


Also accompanying the Notice of Appeal, as mailed to the Patent and Trademark Office on April 12, 2007, was a return receipt postcard which was to be stamped by Patent Office Mail Room and then returned to Applicants attorneys. That postcard was received back by applicants' attorneys from the Patent and Trademark Office indicating that the timely Amendment was received at the Patent and Trademark Office on April 16, 2007. A copy of that receipted postcard is attached to the annexed Declaration of Alfred W. Froebrich.

Furthermore, Applicants note that the Notice of Appeal and Request mailed on April 16, 2007 are present in the electronic file wrapper for the present application at the United States Patent Office, further evidencing receipt by the USPTO of the response mailed April 12, 2007.

Inasmuch as Applicants did in fact file a timely and complete response to the Office Action of October 13, 2006, as evidenced by the annexed Declaration of Alfred W. Froebrich and the attachment thereto, it is respectfully requested that the holding of abandonment of the instant application be withdrawn and that the case be restored to active, pending status. It is further requested that, upon restoration of the case to active, pending status, the Examiner duly

consider the substance of the Notice of Appeal and Request for Pre-Appeal Brief Review originally filed and thereby continue prosecution of the instant application.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP

By 
Alfred W. Froebrich
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(212) 687-2770

Dated: May 16, 2007



Attorney Docket # 410001-374PUS

Patent

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DECLARATION OF ALFRED W. FROEBRICH

S I R:

I, Alfred W. Froeblich, hereby declare and state that:

1. I am one of the attorneys-of-record in connection with the above-identified application. I am registered to practice before the Patent and Trademark Office under Registration No. 38,887.

2. On May 7, 2007, I received a "Notice of Abandonment", mailed from the Patent and Trademark Office, reciting that the subject application has been abandoned in view of applicants' alleged failure to respond to the Office Action mailed October 13, 2006. A true copy of that Notice of Abandonment is attached hereto.

3. In actuality, applicants suitably responded to the Office Action of October 13, 2007 by the filing of a "Notice of Appeal" and "Request for Pre-Appeal Brief"

which contained a complete response to the Office Action. A true copy of that Notice of Appeal and Request, as mailed to the Patent and Trademark Office, is also attached hereto.

4. The Notice of Appeal and Request were mailed to the Patent and Trademark Office on April 12, 2007 and were accompanied by a Certificate of Mailing which was, as seen on the attached copy of the Notice, printed directly thereon. Both the Notice and the Certificate of Mailing which appears thereon were signed on April 12, 2007. Moreover the Notice of Appeal and Request were in fact deposited with the United States Postal Service on April 12, 2007, as indicated in the Certificate of Mailing.

5. The Notice, as mailed to the Patent and Trademark Office on April 12, 2007, was also accompanied by a check in the amount of \$1400.00 for an extension fee and an appeal fee and a return receipt postcard which was datestamped on April 16, 2007 as received by the Patent Office Mail Room and then returned to applicants' undersigned attorney as proof of the Patent Office's receipt of the accompanying documents. A copy of the check and the datestamped return receipt postcard is also attached hereto.

6. Furthermore, the Notice of Appeal and Request mailed on April 12, 2007 are currently available from the U.S. Patent and Trademark Office PAIR system. In fact, the attached copies of the Notice of Appeal and Request were retrieved from the PAIR system.

7. As should be apparent from the facts and circumstances related in this Declaration, no abandonment of the subject application was intended. Indeed, applicants' filing on April 12, 2007 of a Notice of Appeal in complete response to the Office Action of October 13, 2006 evidences the intention to proceed with and maintain the pendency of the

application. Accordingly, the subject application should not have been held abandoned, and that holding must properly be withdrawn.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 16th day of May, 2007



Alfred W. Froeblich

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To: Patricia Espinosa



410001-374PUS AAC/MAM April 12, 2007

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Dirk KÖTHEN et al.
Serial No.: 10/559,207
Filed: December 2, 2005
For: Fuel Injection Nozzle
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Enclosed Herewith:

1. Notice of Appeal w/Cert. of Mailing
2. Request for additional 2-month extension of time
3. Pre-Appeal Brief Request for Review
4. Check for \$1400.00 for appeal fee and for request for extension of time
5. Return receipt postcard

